Application Serial No. 10/591,020
Reply to final office action of April 28, 2009

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PATENT
Docket: CU-5023

### Remarks and Arguments

Claims 1-11 are pending in the present application before this amendment. By the present amendment, no amendments have been made to the claims as none are deemed necessary. No new matter has been added.

**In the office action (page 5), claims 1-11 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,795,451 (Giorgetta).**

The applicant respectfully traverses this rejection for at least the following reasons.

Claim 1 recites, inter alia:

--after receiving the DCC negotiation message, the network element at the receiving end *comparing* overhead bytes contained in the DCC negotiation message with overhead bytes *available to the network element at the receiving end*, to obtain an intersection, which are overhead bytes, for constructing a DCC, available to both the network elements, wherein the overhead bytes as bandwidth of the DCC are used to perform a second DCC configuration in the same order, so as to establish the DCC--

Thus, claim 1 requires that the receiver compare its own available overhead bits with the overhead bytes in the DCC negotiation message.

In the office action (page 6), the examiner cites col. 12, lines 19-21 (referring to FIG. 9), and col. 13, lines 23-37 (referring to FIG. 11A) as allegedly disclosing this feature of the presently claimed invention. However, neither these passages, nor the examiner's comments, even address (or account for) a network element at the receiving end **comparing its own available overhead bytes** with the DCC negotiation message from the network element at the transmitting end to obtain an intersection. Thus, the examiner has not shown (nor can the applicants discern) any teaching of this element in Giorgetta.

In the method for generating an auxiliary communication link of Giorgetta, col. 12 lines 19-21 as cited by the Examiner (referred to as the first portion), it is disclosed that the FSB bits from 0 to 32 may be defined by a user for the data link. It is clear that the first portion does not disclose any negotiation of overhead byte available to both network elements.

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Col. 13 lines 23-37 of Giorgetta as cited by the Examiner (referred to as the second portion) describe the flowcharts of the method. Step 202 receives a first stream of information. Step 204 creates a first frame structure including a selectable first group of overhead bits and a selectable second group of overhead bits. Step 206 selects a first group of overhead bits to read. Step 208, in response to reading the first group of overhead bits, synchronizes the first stream of information into the first frame structure. Step 210 is a product where a set of overhead bytes are reserved for use in an auxiliary data link.

It is clear that the second portion illustrates the operations of the receiver, i.e. how a set of overhead bytes for use in the auxiliary data link are reserved in the created first frame structure. It is clear that in this method of Giorgetta the receiver **does not compare *its own available overhead bits* with the first stream of information from the transmitter to obtain an intersection.**

In fact, the receiver <u>cannot compare it own available overhead bits with the transmitter because the receiver does not have its own overhead bits before the overhead bits for the auxiliary data link are reserved</u>. Hence, in the method of Giorgetta the resulting overhead bytes reserved is allocated according to the received first stream of information from the transmitter (the allocation is passive).

In contrast, in the method for negotiating bandwidth of a DCC automatically, the network element at the receiving end compares **its own available overhead bytes** with the DCC negotiation message from the network element at transmitting end to obtain an intersection. Therefore, the resulting intersected overhead bytes are obtained by negotiation (comparison) instead of passive reception.

Accordingly, as discussed above, the features --the network element at the receiving end comparing overhead bytes contained in the DCC negotiation message **with overhead bytes available to the network element at the receiving end**, to obtain an intersection-- are **NOT** disclosed by Giorgetta. Therefore, claim 1 of the present invention is not anticipated by Giorgetta. Claim 1 is respectfully submitted to be patentable under 35 USC 102 over Giorgetta.

With the method of the present invention, the negotiated intersection contains all available overhead bytes to both network elements. Hence, it implements automatic

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establishment of a DCC with broadest bandwidth between two network elements connected with each other, which utilizes overhead resource of SDH/SONET signals effectively (referring to paragraph [0065] of the description as originally filed). This technical effect cannot be achieved by Giorgetta. Hence, there is no teaching, suggestion or motivation for a skilled person to modify the teachings of Giorgetta to produce the claimed invention. Therefore, claim 1 of the present invention is non-obvious over Giorgetta.

Dependent claims 2-11 are respectfully submitted to be non-obvious due to at least their dependencies on claim 1.

For the reasons set forth above, the applicants respectfully submits that claims 1-11, now pending in this application, are in condition for allowance over the cited references. Accordingly, the applicants respectfully requests reconsideration and withdrawal of the outstanding rejections and earnestly solicits an indication of allowable subject matter. This amendment is considered to be responsive to all points raised in the office action. Should the examiner have any remaining questions or concerns, the examiner is encouraged to contact the undersigned attorney by telephone to expeditiously resolve such concerns.

Respectfully submitted,

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